

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MURRAY WALTER PISONY,
Plaintiff,

v.

COMMANDO CONSTRUCTION, INC. and
JAMES MCLEOD HOLDINGS INC.,
Defendants.

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Civ. A. No. 6:17-cv-00055-ADA

JURY DEMANDED

**PLAINTIFF’S OPPOSED MOTION FOR LEAVE TO FILE SUR-REPLY IN
OPPOSITION TO DEFENDANTS’ MOTION TO EXCLUDE CERTAIN PROPOSED
EXPERT TESTIMONY FROM DR. JAHAN RASTY**

Plaintiff Murray Walter Pisony (“Plaintiff”) respectfully requests leave to file the attached Sur-Reply in Opposition to Defendants’ Motion to Exclude Certain Proposed Expert Testimony from Dr. Jahan Rasty (“Sur-Reply”) and shows the Court as follows:

On June 22, 2020, Defendants Commando Construction, Inc. and James McLeod Holdings Inc. (“Defendants”) filed their Reply in Support of their Motion to Exclude Expert Testimony from Dr. Jahan Rasty (“Reply”). ECF No. 124. Defendants’ Reply raises arguments regarding claim construction, including alleged active and passive voice in the Court’s construction, whether Dr. Rasty has misapplied the claim construction, and Defendants’ attempt to re-litigate claim construction issues.

Plaintiff requests leave to file the attached brief Sur-Reply to address limited, but critical issues and hopefully bring some clarity. Further, Defendants’ new arguments show that they are trying to relitigate issues they lost in claim construction. The Local Rules of the Western District of Texas do not permit a sur-reply as a matter of right.

Counsel for Plaintiff conferred with counsel for Defendants on June 29, 2020, and counsel

for Defendants stated that Defendants are opposed to this motion.

Plaintiff respectfully prays that the Court grant Plaintiff leave to file his Sur-Reply, which is attached hereto as "Exhibit A" and is incorporated herein by reference.

DATED: June 29, 2020.

Respectfully submitted,

WILSON LEGAL GROUP P.C.

By: /s/ John T. Wilson

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CERTIFICATE OF SERVICE

On June 29, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ John T. Wilson

John T. Wilson